

Town of Mayfield Board of Appeals

**Wednesday
October 5, 2011**

Minutes

Present:

Richard Bumpus, Chairman
David Sammons, Member
Richard Dixon, Member
James Cownie, Member
Peter Tautznik, Member
Michael Stewart, Code Enforcement Officer
Carmel Greco, Town Attorney
Paul Wolman, Salton Attorney
Steve Salton
Rick Morrison
Jean Russell
Kevin McClary
Don Russell
Richard Travis
Kimberly Travis
Barbara Cook
Jarrett Carroll
Jack Putman
Carolyn Putman
Laurie Demaria
Tom Roehl
Richard Argotsinger
Steve Staff
Ben Burn
Anthony Cerra
Brian Burrell
Lisa Magon

Meeting called to order:

Meeting was called to order at 4:03 PM

Approval of Minutes to the August 24, 2011 Meeting

Motion: To approve the minutes to the August 24, 2011 meeting.
Made By: Richard Dixon
Seconded: James Cownie

Unanimous

Public Hearing Re-Open Salton

Motion: To reopen Salton Public Hearing

Made By: Richard Dixon

Seconded: David Sammons

Unanimous

Opened at 4:05 PM

Town Attorney Greco reviewed the procedure to be followed giving a brief synopsis of the events that brought the Board to this point. He noted that he requested the reopening of the hearing to submit additional information that was not available to him at the last meeting as proof that Mr. Salton was not operating prior to the enactment of zoning in the Town and is therefore not a pre existing operation. Twenty four (24) documents were submitted in total.

1. Letter NYS DEC 10-20-04
2. Gazette Article 8-20-05
3. NYS DEC License 6-26-06
4. License NYS DEC 6-26-07
5. USDA Certificate exp 4-24-08
6. License Application NYS DEC-6-2006
7. License NYS DEC 3-5-06
8. License Application 4-24-06
9. Application NYS DEC 10-8-04
10. Letter NYS DEC 10-14-08
11. Application NYS DEC 10-6-08
12. Letter NYS DEC 9-4-08
13. Email DEC 8-25-08
14. Bill of Sale 8-21-07
15. Record of Sale 8-15-07
16. License NYS DEC 8-25-11
17. License NYS DEC 6-30-09
18. License NYS DEC 6-30-08
19. Renewal NYS DEC 5-22-09 with attached business card
20. License NYS DEC 6-30-08
21. Renewal NYS DEC 5-22-09
22. Internet advertisement 9-1-11 Objected to By Attorney Wolman
23. Internet advertisement Manta website Objected to By Attorney Wolman
24. Complaint forms NYS DEC 8-11-05, 8-15-05

Attorney Greco stated in closing that upon the enactment of the 2005 Town Zoning Law Mr. Salton was not operating his business in its current form and that the burden of proof is on Mr. Salton to prove that he was operating prior to that date and that he is not a business. In a final statement Attorney Greco said he felt that the information presented by the Town shows that Mr. Salton is not grandfathered, is a business, and that Mr. Stewart's

determination is correct.

Attorney Wolman stated that according to the minutes of November 8, 2010 Town Board meeting the subject of exotic animals was brought up by Councilman Coleti and that he stated that there were three licensed facilities in the Town and that no action needed to be taken. Mr. Salton has nothing on file with IRS to show that he is a business because he makes no money at it and that he has an exotic animal license with all required licenses still in effect. There is nothing in the zoning regulations that prohibits exotic animals.

He purchased property in 1994 and there were no restrictions then and there are none now .If that's what the Town wanted to do it should have written the Law to prohibit exotic animals.

Attorney Wolman stated that this is not a business, it has no signs and is hard to find it if looking for it. It was stated that the animals are secure. The Zoning does not say that you cannot have exotic animals and Mr. Salton is licensed by USDA and the State. It was noted that you are not a business if you don't have a sign. Attorney Wolman noted that there are only 3500 leopards and 3000 tigers left and that the Town should be glad to have something like this in Town. He does not understand what Attorney Greco put into evidence and restated that there is nothing that says that it is illegal to possess these animals in the Town. Noting that what the Town is doing is incorrect and wrong, there is nothing to prohibit it.

Mr. Bumpus asked is there a limit on number of animals he can have and Mr. Salton replies that if he were to add animals USDA and DEC approval needed.

Mr. Dixon asked when first got License and Mr. Salton said April 2007

Attorney Wolman said the Town knew of the existence of the exotic animals as evidenced by November 8, 2010 Town Board meeting comments and Laches applies.

Mr. Sammons asked if the business card with an admission fee printed on the back was handed out by Mr. Salton and he said that he told people it was up to them if they wanted to make a donation and that the fee on the back was a printing error.

Attorney Greco Stated that the issue is not whether the Town permits exotic animals but whether a business is being operated by Mr. Salton. The business card and advertisements are an indication that a business is being operated by Mr. Salton. No documents showing that the operation was in existence at the enactment of the Zoning Law August 2005 have been presented.

Attorney Wolman said it is clear that it is not a business. The Town can not tell him how many animals he can have and that the USDA and New York State control what Mr. Salton is doing with the animals. The zoning law does not say anything about keeping wild animals, there have been no injuries and the site is inspected annually. The Town was well aware of the animals there.

Brian Burrell stated he has taken 40- 50 people to see the animals and was not asked for any money. He personally has a business card for presentations he does and accepts donations but is not a business.

Laurie Demaria said she has driven past the site many times and never knew he had the tigers until after the first meeting and if it was a business why did she not know about it.

Kim Travis spoke about the process to obtain addition animals.

Lisa Magon, Mr. Saltons insurance agent, stated that they are aware of his operation and he is covered by a homeowner's insurance policy, is not considered a business or covered by business insurance from them. She stated that she has taken many people there and not been asked for any money

Motion to close hearing:

Made By: Richard Dixon
Seconded: James Cownie
All in favor

Attorney Greco stated that he believed the 62 day clock would restart tonight since the public hearing was reopened with Attorney Wolman in agreement

A discussion was held regarding how to proceed with the decision and Attorney Greco informed the Board that they could deliberate in private but had to issue their findings in writing at a public meeting. Attorney Wolman was in agreement.

Other Business:

Next Meeting October 26, 2011

Close of Meeting

Motion: To close meeting
Made By: Richard Dixon:
Seconded James Cownie
All in favor